

## **ARTICLE 15**

### **HOURS OF WORK AND OVERTIME**

#### **Section A. Work Period.**

The work period is defined as ten (10) work days within the fourteen (14) consecutive calendar days which coincides with the current biweekly pay period.

#### **Section B. Weekend Work.**

The "manner of scheduling weekend work" means such matters as rotational schedules. Subject to the provisions of this Agreement the Employer may schedule employees to work additional hours on weekends. The manner of scheduling employees to work on weekends current on the effective date of the Agreement shall be maintained, except as follows: should operational needs or programmatic changes occur which the employer deems to necessitate a change in current practices at an Agency, the Appointing Authority or designee will request a Labor-Management meeting under Article 10 above for the purpose of discussion of the proposed change. The Union may propose alternatives to the Agency proposal, which alternatives shall be reviewed and considered before implementing a change. The Employer shall notify the Union in writing of its decision to implement such a change. If the Union wishes to grieve the Employer's decision, the Union shall file such grievance at Step Three within fourteen (14) calendar days of receipt of the decision. Any change in current practice shall be subject to the grievance procedure, wherein the initial burden of proof shall be upon the Agency to demonstrate the justification for the change.

Should the Union desire to alter the current practice in this regard, the Local President shall request a Labor-Management meeting under Article 10 above for the purpose of discussion of the proposed change. Such proposal must be based upon operational needs and/or programmatic changes or the demonstrated needs of the employees, provided the proposed change has no substantial adverse impact on programs or operations. Changes based on the demonstrated needs of the employees may not be implemented more often than every twelve (12) months in any given portion of the work force.

In the event the Appointing Authority denies the Union proposal, such denial shall be subject to the grievance procedure, wherein the initial burden of proof shall be upon the Union to demonstrate justification for the proposed change.

#### **Section C. Work Day.**

The work day shall consist of twenty-four (24) consecutive hours commencing at 12:01 a.m. except where mutually agreed. Employees will be compensated on the basis of the calendar day on which their shift begins for the regular hours of that shift.

#### **Section D. Work Shift.**

The work shift shall normally consist of eight (8) consecutive hours of work which may be interrupted by a meal period.

#### **Section E. Work Schedules.**

Work schedules are defined as an employee's assigned hours, days of the week, days off, and shift rotation. Schedules not maintained on a regular basis or fixed rotation shall be posted as far in advance as possible, but at least fourteen (14) calendar days prior to the beginning of the pay period to be worked.

Changes in scheduled shifts or in starting time on a scheduled shift may be made up to ninety-six (96) hours prior to the beginning of the pay period to be worked. Any other changes in scheduling may be made up to forty-eight (48) hours prior to the beginning of the pay period to be worked. Any changes in scheduling shall be confirmed in writing to the employee through direct memo only in accordance with the time limits stated above.

The work schedule of the employee shall not be altered solely to avoid premium overtime. Any change in work schedule not in compliance with this Section shall result in compensation for hours worked outside the regularly scheduled shift at one and one-half (1½) times the employee's regular rate of pay. In the event two employees volunteer to change their work schedule, the Appointing Authority or designee shall grant such request subject to operational considerations, and such scheduling change shall be exempt from the one and one-half time compensation required by this Section.

The provisions of this Section shall apply to all employees, including part-time but excluding permanent-intermittent. The subject of notifying permanent-intermittent employees of changes in their work schedule shall be an appropriate subject for secondary negotiations in all Departments.

#### **Section F. Change of Shift.**

In the event of an employer-initiated change in shift from a pre-established work schedule, employees must be off regularly scheduled work for a minimum of two (2) shifts or their equivalent unless a scheduled day or days off intervenes between such shift change. Employees who work regularly scheduled swing shifts within a work period or who are on a regularly scheduled rotational schedule between shifts shall be exempt from the provisions of this Section.

#### **Section G. Meal Periods.**

In accordance with current practice, work schedules shall provide for the work day to be broken at approximately mid-point by an uninterrupted, unpaid meal period of not less than thirty (30) minutes. However, this shall not preclude work schedules which provide for a paid meal period. Those employees who receive an unpaid meal period, and are required to work at their work assignments and are not relieved for such meal periods shall have such time treated as hours worked for the purpose of computing overtime.

In the Department of Corrections, those employees who receive a paid meal period and are required to remain at their work assignment for such meal periods shall be provided a meal without charge from the same menu provided the residents. To be eligible, the employee shall be:

1. Employed and assigned within the security perimeter of a correctional facility where departmental food service facilities are available; and
2. Required to remain at the correctional facility for the full regular shift during the period provided for consuming the meal; and
3. Entitled to receive full pay for the period during which the meal is to be consumed.

The provisions of, and length of, meal periods in accordance with practice current on the effective date of the Agreement shall be maintained, except as follows: should operational needs or programmatic changes occur which the Employer deems to necessitate a change in current practices at the Agency, the Appointing Authority or designee will request a Labor-Management meeting under Article 10 above for the purpose of discussion of the proposed change. The Union may propose alternatives to the Agency proposal, which alternative shall be reviewed and considered before implementing a change. The Employer shall notify the Union in writing of its decision to implement such change. If the Union wishes to grieve the Employer's decision, the Union shall file such grievance at Step Three of the grievance procedure within fourteen (14) calendar days of receipt of the decision. Any change in current practice shall be subject to the grievance procedure, wherein the initial burden of proof shall be upon the Agency to demonstrate the justification for the change.

Should the Union desire to alter the current practice in this regard, the Local President shall request a Labor-Management meeting under Article 10 above for the purpose of discussion of the proposed change. Such proposal must be based upon operational needs and/or programmatic changes or the demonstrated needs of the employees, provided the proposed change has no substantial adverse impact on programs or operations. Changes based on the demonstrated needs of the employees may not be implemented more often than every twelve (12) months in any given portion of the work force. In the event the Appointing Authority denies the Union proposal, such denial shall be subject to

the grievance procedure, wherein the initial burden of proof shall be upon the Union to demonstrate justification for the proposed change.

In the Department of Corrections, the issue of employees foregoing lunch periods, or lunch periods being extended beyond 30 minutes shall be a proper subject for secondary level negotiations regardless of current practice.

#### **Section H. Lounge and/or Eating Areas.**

Where current practice provides, the Employer shall continue to provide adequate lounge and/or eating areas, separated from clients and employees' normal areas of work.

The Employer recognizes the desirability of providing an adequate lounge and/or eating area conveniently located and accessible to all employees. In those work locations that do not presently provide such accommodations, the Employer will make a reasonable attempt to provide space for this purpose. Space provided shall be separated from patients/residents and employees' normal work areas and accommodate all those employees who are scheduled to utilize the same at any given time.

The Employer shall, in all lounge and/or eating areas, provide heat, lights, furniture, and where practical an electrical outlet.

#### **Section I. Rest Periods.**

There shall be two (2) rest periods of fifteen minutes each during each regular shift; one during the first half of the shift and one during the second half of the shift. The Employer retains the right to schedule employees' rest periods and to shorten such periods to fulfill emergency operational needs. Current practices regarding breaks taken in the course of operational duties or on an irregular basis may be maintained.

#### **Section J. No Guarantee or Limitation.**

This Article shall not be construed as a guarantee or limitation of the number of hours per work day or work period.

#### **Section K. Pyramiding.**

Premium payment shall not be duplicated (pyramided) for the same hours worked.

#### **Section L. Overtime Procedure.**

## **1. Definitions.**

### **a. Overtime:**

In accordance with Fair Labor Standards Act, for Agency based employees in the Departments of Community Health, Corrections and Military and Veterans Affairs, overtime is time that an employee, including part-time and permanent-intermittent employees, is in pay status in excess of eight (8) hours in a day or eighty (80) hours in a biweekly pay period or for all consecutive hours in excess of eight (8) hours. For all other employees, overtime is time that an employee, including part-time and permanent-intermittent employees, is in pay status in excess of eight (8) hours in a day or in excess of forty (40) hours in a week or for all consecutive hours in excess of eight (8) hours. Employees who are authorized and do work in excess of the hours described above shall be paid at the rate of one-and-one-half (1½) the employee's straight time base hourly rate or compensatory time in accordance with Section N. below.

For purposes of determining pay status, annual leave, banked leave time, sick leave, compensatory time, administrative leave, holiday pay, and military leave shall be treated as time worked.

### **b. Scheduled Overtime:**

Scheduled overtime work is defined as any overtime work which the Employer knows will be necessary forty-eight (48) hours or more in advance of the overtime work. However, all scheduled overtime shall be offered no later than forty-eight (48) hours in advance.

### **c. Non-Scheduled Overtime:**

Work which the Employer needs to schedule less than forty-eight (48) hours in advance.

### **d. Overtime Subdivision (Overtime Equalization Unit):**

The definition of overtime subdivisions shall be defined in secondary negotiations, except for the Department of Community Health which shall be as listed in Appendix G.

## **2. Application.**

In the Family Independence Agency, overtime procedures shall be a proper subject for Department Labor-Management meetings.

The Employer has the right to schedule overtime work as required in a manner most advantageous to the Employer and consistent with the requirements of State employment, the public interest, and consistent with the terms of this Agreement.

Whenever and wherever possible, overtime shall be on a voluntary basis, and involuntary overtime shall be avoided.

Should incidental situations arise which cause the Employer to choose other than the appropriate employee in accordance with Sections (a) or (b) below, the Employer shall notify the Union, in writing, no later than three (3) calendar days after the choice.

Any employee who was not chosen for overtime shall be offered, on a one time basis, the next available overtime. Should the employee decline the offered overtime, no hours will be charged to the employee's total of overtime worked. The employee will be placed in the regular rotation on the overtime list, as if the employee had worked the overtime.

In situations involving overtime not in accordance with Sections (a) or (b) below that continue to occur on a regular basis, on the request of either party, the Employer shall meet with the Union at the Agency and reach agreement, addressing the situation as soon as practical, but no later than seven (7) calendar days while continuing to assign overtime in accordance with paragraphs 3 and 4 above. Should no agreement be reached at the Agency, the issue may be raised at the Department Labor-Management meeting.

In the Department of Military and Veterans Affairs, employees who work overtime to cover the absence of non-Civil Service workers employed by a contract vendor shall receive a premium of up to \$0.50/hour for all overtime hours worked in such assignment to be included in calculations for overtime rates if and only if the vendor is contractually obligated to provide full reimbursement of such state employee overtime including said premium.

#### **a. Voluntary Overtime**

The voluntary overtime procedure is an appropriate subject for secondary negotiations in the Departments of Education, Labor and Economic Growth, Community Health, Corrections, and Military and Veterans Affairs.

In the Department of Community Health, three representatives from each local union and three agency management representatives shall meet no more than three times within thirty days of the Civil Service Commission approval of this Agreement to establish a voluntary overtime procedure. Any agreement shall be placed in writing. Should the parties not reach an agreement, the issue shall be subject to secondary negotiations.

Scheduled and non-scheduled overtime work will be on a voluntary basis starting with the most senior employee who has indicated a willingness to work overtime in the overtime subdivision.

Voluntary overtime lists will be prepared by overtime subdivision. Voluntary overtime will be equalized by hours on a continuing basis within the several classifications in each overtime subdivision during each three (3) month period beginning with the fiscal year except in the Department of Education which shall be equalized in January and September of each year.

Lists showing fiscal year accumulation of overtime within each overtime subdivision during a preceding six month period shall be posted every six months.

Should an employee who has volunteered for overtime decline to work such overtime, the employee shall be credited with working the number of hours of overtime utilized for purposes of equalization only. If an employee is added to the list, the employee will be credited with the maximum number of hours of any employee on the list. Employees who refuse twice to work overtime in the four week period indicated below shall have their names removed from all lists for the remainder of the current four week period only.

Except in the Departments of Education, State Police, and Family Independence Agency the following procedure shall apply. In the Department of Community Health, the topic of changes to the following procedure is an appropriate subject for secondary negotiations.

Voluntary overtime sign up will be on a four week basis. Employees must give their written designations to the Appointing Authority or designee no later than 4:30 p.m. on the Wednesday prior to the effective date of the overtime lists. Employees signing the four week period lists shall indicate the following for working overtime:

- (1) Shift(s) they are willing to work;
- (2) Day(s) they are willing to work;
- (3) Assignment location(s) they are willing to work.

A copy of these lists will be made available to the Local Union upon request.

The manner of offering voluntary overtime shall be discussed at the first Agency Labor-Management meeting after the effective date of this

Agreement. If no Agreement is reached, either the Local Union or the Agency may place this on the agenda for the next regularly scheduled Department Labor-Management meeting. If no new Agreement is reached, mutually accepted Agreements now utilized shall remain. If no Agreement has been reached current contract language shall continue. The parties may alter the size of the overtime bank upon mutual agreement at any time. All Agreements reached under this Section shall be reduced to writing and signed by both parties. Voluntary overtime shall be offered in the manner and order listed below:

- (1) Volunteers shall be sought from the list(s) of the available on-duty employees within the classification from the voluntary overtime list(s).
- (2) If no volunteer from the list is obtained, voluntary overtime shall be opened to all available, on-duty employees within the classification being sought.
- (3) If no volunteers are obtained, voluntary overtime shall be offered to other qualified employees within the Bargaining Unit, for example, a DSA, PTA, ATA, or LPN may be used to work in an RCA position provided they have prior experience as an RCA. However, if an RCA volunteers, the RCA shall be given the overtime over the other qualified employees.
- (4) If no on-duty volunteers are obtained, the Call List shall be used. The Call List consists of those employees on the four week overtime list who have indicated a willingness to be called at home for voluntary overtime. Mandatory overtime may be used until available employees are obtained from the Call List.

In the Departments of Education, State Police, and Family Independence Agency, current practice of assigning voluntary overtime shall remain in effect.

If it is determined that an employee did not receive overtime work for which the employee was eligible under the provisions of this Section, the employee shall receive preference for future overtime work until such situation is corrected. Any employee who has been bypassed for overtime shall be offered, on a one time basis, the next available overtime. Should the employee decline the offered overtime, no hours will be charged to the employee's total of overtime worked. The employee will be placed in the regular rotation on the overtime list, as if the employee had worked the overtime.



## **b. Involuntary Overtime**

In the Department of Community Health, if not successful, supervisors will then go to the involuntary overtime list that consists of 100% of the employees on a shift in a classification series and assign the overtime. The involuntary overtime list will be arranged in seniority order, and initially the least senior employee will be assigned the overtime and so on through the list on a rotational basis. An employee that is not on duty, for any reason, at the time they are to be assigned involuntary overtime will be bypassed and placed at the top of the list for the next involuntary overtime assignment.

Employees added to the list will be placed on the list according to their seniority and will be assigned involuntary overtime when their name comes up in the rotation.

At the end of the first full pay period in January, April, July and October of each year, the list will restart with the least senior employee.

In the Departments of Military and Veterans Affairs, Corrections, Education, and Labor and Economic Growth, the involuntary overtime procedure is an appropriate subject for secondary negotiations.

In all Departments, employees may not be mandated to work beyond the end of a voluntary overtime shift or beyond two consecutive shifts. Employees required to work involuntary overtime shall be notified of same as soon as possible, but not later than thirty (30) minutes prior to the start of the overtime assignment before involuntary overtime can be required provided that the Appointing Authority has received not less than sixty (60) minutes notice from employees indicating that they will not be able to work their regularly scheduled assigned shift. The Local Union President or designee shall be able to review, upon request, the Employer's records on employee call-ins.

In the Department of Community Health, in the event that incidents of involuntary overtime (excluding holidays) approximate or exceed five (5%) percent of the total work force within classification grouping within any biweekly work period, the parties shall, within the following biweekly work period, upon the request of either party, hold a special Agency Labor-Management meeting to explore the causes of this situation and attempt to agree upon remedies to correct the situation. Should the problem become recurring or should similar situations exist at more than one work location, the parties shall upon the request of either party, address the matter in a special Department Labor-Management meeting to be held as expeditiously as possible.

In emergency situations (such as concerted employee activity, snowstorms, tornadoes, major utility breakdowns, or similar situations) where volunteers are not available, the Employer may assign involuntary overtime as needed. The Employer shall notify the Union immediately of the emergency condition, and the expected duration of the condition.

In those cases where an employee does not call in and fails to appear for a scheduled shift, the Employer may, without notifying the Union, assign involuntary overtime until a volunteer can be found. If an overtime bank has been established, the Employer shall use such bank. If no overtime bank has been established, the Employer shall use the least senior employee in the classification at the assignment location on the previous shift.

If the Employer assigns involuntary overtime and an employee has personal reasons for not working such overtime and finds a qualified volunteer to fill in for him/her the Employer shall use such volunteer.

No more than once each quarter, beginning at the end of the first full pay period in each January, April, July and October, an employee subject to mandatory overtime may request an exemption for personal reasons. When this occurs the next person in line for mandatory service shall take the assignment.

The issue of mandatory overtime coverage for educational release shall be a proper subject for Agency Labor-Management meetings. Employees who are attending school in accordance with the guidelines established for the use of the Education and Resource Fund, whether they are receiving tuition reimbursement or not, may be excused from mandatory overtime in order to attend class(es) in accordance with this paragraph. If the Agency receives written request from an employee to be excused from mandatory overtime, the Agency will meet with local Union officials to try to work out an agreement to excuse the individual. Agreements must be in writing and signed by both parties. While it may not be possible to excuse all those who request, all reasonable efforts shall be made by both parties to accommodate employees to encourage them to pursue their education. If the issue cannot be mutually agreed to, the provisions of Article 15, Section L. shall be applied.

### **c. Payment of Overtime**

It shall be the regular practice of the Employer that payment for overtime is to be made the pay day of the first pay period following the pay period in which the overtime is worked.

#### **d. Call-Back Pay**

Call-back is defined as the act of contacting an employee at a time other than regular work schedule and requesting that the employee report for work. Contacting an employee at work to have that employee work an additional period of time at the end of the current shift shall not constitute call-back. Employees who are called back and whose call-back time is adjacent to their regular working hours shall be paid only for those hours worked. Employees who are called back and whose call-back hours are not adjacent to their regular working hours shall be guaranteed a minimum of three (3) hours compensation.

#### **Section M. Flexible Hours.**

Nothing in this Article shall be construed to limit the Employer in establishing, modifying or abolishing such voluntary flextime systems of scheduling as are consistent with program needs of the Employer and which do not violate terms of this Agreement. Plans proposed by the Employer for consideration by employees shall be provided to the Local Union prior to being presented to the affected employees and shall be presented to the affected employees for consideration only upon agreement by the Local Union and Council 25. If any plans proposed would result in layoff of a permanent employee, such plan will be negotiable. Overtime rates shall apply to all hours in excess of eighty (80) in a work period and to all hours in excess of twelve (12) worked outside the regular daily flextime schedule.

Should flexible hours be agreed to, compensation for holidays shall be paid in accordance with Article 16, Section E. Administration of Holidays and Leave Benefits.

It is agreed that the issue of flexible hours shall be a proper subject of discussion for Agency Labor-Management meetings at the Union's request.

#### **Section N. Compensatory Time.**

Employees may choose either to receive cash payment or with departmental approval compensatory time for holiday hours worked in excess of eighty (80) in a pay period. Overtime credit earned on a particular day may not be split between cash pay and compensatory time. Employees may accumulate up to a maximum of eighty (80) hours of such compensatory time. In the Department of Corrections, employees may choose to receive compensatory time for overtime worked (including holiday hours worked in excess of 80 hours in a pay period), up to a limit of 144 hours in a fiscal year. Corrections Department employees may accumulate up to a maximum of one hundred (100) hours of such compensatory time.

Employees who wish to use compensatory time may do so only with prior approval of their supervisor. Such compensatory time must be utilized before the employee can use annual leave except where an employee at the applicable Annual Leave "cap" would thereby lose annual leave. Departmental practices in the administration of compensatory time shall continue unless altered in secondary negotiations.

Upon separation for any reason the employee shall be paid for all unliquidated compensatory time.

In the Department of Education, the provisions of this Section shall be negotiated in secondary negotiations at the request of either party.

At the employee's option, the employee may be paid for compensatory time credits which have been unused. The employee must notify the agency in writing for the number of hours for which he/she wishes payment no later than November 15 of each year. Payment for such unused compensatory time shall be made in the first full pay period in December. Employees may not designate more hours for payment than they have accrued as of November 15th of each year.